

1 Julie B. Axelrod
2 California Bar. No. 250165
3 Center for Immigration Studies
4 1629 K Street, NW, Suite 600
5 Washington, D.C. 20006
6 Telephone: (703) 888-2442

7 Lesley Blackner
8 Admitted *Pro Hac Vice*
9 Florida Bar No. 654043
10 340 Royal Poinciana Way, Suite 317-377
11 Palm Beach, FL 33480
12 Telephone: (561) 659-5754

13 James P. Miller
14 California Bar No. 188266
15 Law Office of JP Miller Jr.
16 181 Rea Ave, Suite 101
17 El Cajon, CA 92020
18 Telephone: (619) 590-0383

19 **THE UNITED STATES DISTRICT COURT**
20 **SOUTHERN DISTRICT OF CALIFORNIA**

21 WHITEWATER DRAW
22 NATURAL,
23 RESOURCE CONSERVATION
24 DISTRICT *et al*,

25 Plaintiffs,

26 v.

27 KEVIN MCALEENAN, *et al*,

28 Defendants.

Case No. 3:16-cv-2583

**PLAINTIFFS' NOTICE OF
MOTION AND MOTION FOR
SUMMARY JUDGMENT ON
COUNTS III, IV, AND V OF THE
AMENDED COMPLAINT**

Date: June 28, 2019

No Oral Argument Unless Requested by
the Court

Hon. M. James Lorenz

1 PLEASE TAKE NOTICE THAT ON June 28, 2019, before the Honorable
2 M. James Lorenz, in the United States Courthouse for the Southern District of
3 California, located at 221 West Broadway, San Diego, California, Plaintiffs Whitewater
4 Draw Natural Resource Conservation District, Hereford Natural Resource
5 Conservation District, Arizona Association of Conservation Districts, Californians for
6 Population Stabilization, Scientists and Environmentalists for Population
7 Stabilization, New Mexico Cattlegrower's Association, Glen Colton, and Ralph Pope
8 will and hereby do move the Court to grant summary motion for the Plaintiffs on
9 Counts III, IV, and V of the Amended Complaint. Count III asks the Court to vacate
10 the adoption of an Invalid Categorical Exclusion. Count V asks the Court to vacate
11 the arbitrary and capricious application of the categorical exclusion in four instances.
12 Count V asks the Court to vacate an arbitrary and capricious finding of no significant
13 impact.

14 This Motion is based upon this Notice and Motion, the accompanying
15 Memorandum of Points and Authorities, and other such evidence as may be received
16 by the Court.

17
18 Dated: April 23, 2019
19

20
21 Respectfully submitted,

22 /s/Julie B. Axelrod

23 Julie B. Axelrod

24 California Bar. No. 250165

25 The Center for Immigration Studies

26 1629 K Street, NW, Suite 600

27 Washington, D.C. 20006

28 Telephone: 703-888-2442

Fax: (202) 466-8076

jba@cis.org

1 Lesley Blackner
2 Admitted *Pro Hac Vice*
3 Florida Bar No. 654043
4 340 Royal Poinciana Way, Suite 317-377
5 Palm Beach, FL 33480
6 Telephone: (561) 659-5754
7 lesleyblackner@gmail.com

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9 California Bar No. 188266
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